

ORIGINAL

(S E R V E D)
(February 9, 2004)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 04-03

Nick International Shipping, Inc. and Olimpia Sandoval
a.k.a Marisela Cordero -Possible Violations of Sections 8(a) and
19 of the Shipping Act of 1984, as well as the Commission's
Regulations at 46 C.F.R. Parts 515 and 520

ORDER OF INVESTIGATION AND HEARING

Nick International Shipping, Inc. ("Nick") was incorporated in the State of New York on March 24, 1994, and is presently located at 1841 Carter Avenue, Bronx, New York 10457. Ms. Olimpia Sandoval a.k.a. Marisela Cordero ("Olimpia Sandoval") occupies the position of President and owns 75% of the capital stock. The other 25% of the stock is owned by Mr. Nicholas Sandoval who occupies the position of Vice President. Nick appears to be an ocean transportation intermediary ("OTI") operating as an unlicensed, unbonded, and untariffed non-vessel-operating common carrier ("NVOCC") primarily in the trade between the United States and the Dominican Republic.

Based on evidence available to the Commission, it appears that, from at least August 14, 2000 Nick knowingly and willfully operated as a common carrier without publishing a tariff showing all of its active rates and charges. Moreover, it appears that Nick has knowingly and willfully provided transportation services as an NVOCC with respect to numerous shipments from at least August 14, 2000 without obtaining an OTI license from the Commission and without providing proof of financial responsibility.

Section 19 of the Shipping Act of 1984 (“1984 Act”), 46 U.S.C. app. 1718, prohibits any person from providing OTI’ services prior to being issued a license from the Commission and obtaining a valid bond, proof of insurance, or other surety in a form and amount determined by the Commission to ensure financial responsibility. The Commission’s regulations at 46 CFR 515.21 support this obligation by requiring any person operating as an OTI/NVOCC in the United States to provide evidence of financial responsibility in the amount of \$75,000.’ Furthermore, section S(a) of the 1984 Act, 46 U.S.C. app. 1707(a), requires NVOCCs to maintain open to public inspection in an automated tariff system, tariffs showing all their active rates, charges, classifications, and practices. The Commission’s regulations at 46 CFR 520.3 affirm this statutory requirement by directing each NVOCC to notify the Commission, prior to providing transportation services, as to the location of its tariffs, as well as the publisher used to maintain those tariffs by filing Form FMC-1. Pursuant to section 13 of the 1984 Act, 46 U.S.C. app. 1712, a party is subject to a civil penalty

¹ According to section 3(17) of the 1984 Act, 46 U.S.C. app. 1702(17), an ocean transportation intermediary is defined as either a freight forwarder or a non-vessel-operating common carrier.

² This applies to NVOCCs “operating in the United States.” With regard to foreign-based entities that perform OTI services in the United States, the Commission’s regulations at 46 CFR 515.21(a)(3) require proof of financial responsibility in the amount of \$150,000.

of not more than \$30,000 for each violation knowingly and willfully committed, and not more than \$6,000 for other violations.’

NOW THEREFORE, IT IS ORDERED, That pursuant to sections 8, 11, 13, and 19 of the 1984 Act, 46 U.S.C. app. 1707, 1710, 1712, and 1718 an investigation is instituted to determine:

1) whether Nick International Shipping, Inc. violated section S(a) of the 1984 Act and the Commission’s regulations at 46 CFR part 520 by operating as a common carrier without publishing a tariff showing all of its active rates and charges;

2) whether Nick International Shipping, Inc. and Olimpia **Sandoval** a.k.a. Marisela **Cordero** violated section 19 of the 1984 Act and the Commission’s regulations at 46 CFR Part 515 by operating as non-vessel-operating common carriers in the U.S. trades without obtaining licenses **from** the Commission and without providing proof of financial responsibility;

3) whether, in the event violations of sections 8(a) and 19 of the 1984 Act and/or 46 CFR Parts 5 15 and 520 are found, civil penalties should be assessed against Nick International Shipping, Inc. and Olimpia **Sandoval** a.k.a. Marisela **Cordero** and, if so, the amount of the penalties to be assessed; and

4) whether, in the event violations are found, appropriate cease and desist orders should be issued against Nick International Shipping, Inc. and Olimpia **Sandoval** a.k.a. Marisela **Cordero**.

IT IS FURTHER ORDERED, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission’s **Office** of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law

³ This penalty amount reflects an adjustment for inflation pursuant to the Commission’s regulations at 46 CFR pt. 506.

Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

IT IS FURTHER ORDERED, That Nick International Shipping, Inc. and Olimpia Sandoval a.k.a. Marisela Cordero are designated as Respondents in this proceeding;

IT IS FURTHER ORDERED, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

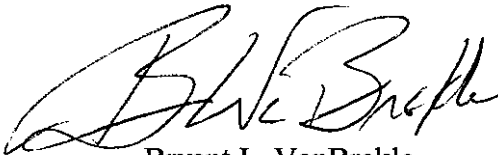
IT IS FURTHER ORDERED, That notice of this Order be published in the Federal Register, and a copy be served on the parties of record,

IT IS FURTHER ORDERED, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

IT IS FURTHER ORDERED, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record,

IT IS FURTHER ORDERED, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

IT IS FURTHER ORDERED, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by February 8, 2005 and the final decision of the Commission shall be issued by June 8, 2005.
By the Commission.



Bryant L. VanBrakle
Secretary